IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

D.B. Civil Writ Petition No.6539/2007

Paras Kumar Jain, aged about 51 years, son of Shri Tara Chand Jain, Insurance Inspctor, Bhiwadi.

.....Petitioner

Versus

1. The Central Administrative Tribunal, Jaipur Bench, Jaipur through its Vice Chairman.
2. Employees State Insurance Corporation, Panchdeep Bhawan, Kotla Road, New Delhi through its Director General.
3. Regional Director, Employees State Insurance Corporation, Panchdeep Bhawan, Bhawani Singh Road, Jaipur

.....Respondents

Date of Order :: 26th October, 2007

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Sanjeev Prakash Sharma for the petitioner
Mr. Tej Prakash Sharma for respondents no.2 and 3

ORAL ORDER (PER R.M. LODHA,J.)

Rule. Mr. Tej Prakash Sharma waives service for respondents no. 2 & 3. The respondents no. 4 to 8 are proforma respondents and, therefore, their service is dispensed with. The respondent no. 1 being formal party,

service on respondent no.1 is also dispensed with.

2. Keeping in view the controversy raised in the writ petition, we dispose of the matter finally at this stage.

3. The present petitioner and the proforma respondents no. 4 to 8 invoked the jurisdiction of the Central Administrative Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 challenging the seniority list.

4. On 30th June, 2005, the Original Application was posted before the Tribunal. Nobody appeared on behalf of the original applicants. Consequently the matter was adjourned for final hearing on 20th July, 2005. In its order dated 30th June, 2005, the Tribunal clarified that no further adjournment would be granted on that date.

5. On 20th July, 2005, none appeared for the original applicants and consequently the original application was dismissed in default by the Central Administrative Tribunal.

6. On 18th August, 2005 the original applicants made an application for restoration of the original application. The cause shown in the application was that their advocate in his

diary had wrongly mentioned the next date being 21st July, 2005 and, thus, they had no knowledge that the matter was fixed on 20th July, 2005 and it is because of that neither the applicants nor their advocate could appear on that date.

7. The restoration application was opposed by the present respondents no. 2 & 3 inter-alia on the ground that the application for restoration signed, verified and filed by Mr. Manish Sharma, Advocate on 18th August, 2005 was not proper being not in accord with the provisions contained in Rule 15(2) of the Central Administrative Tribunal (Procedure) Rules.

8. The Tribunal upheld the objection of the respondents no. 2 & 3 and dismissed the restoration application.

9. After having heard the counsel for the petitioner and the respondents no. 2 & 3 and upon perusal of the order of the Central Administrative Tribunal dated 23rd July, 2007, we are of the view that the whole consideration of the matter by the Tribunal was hyper-technical and lacked justice oriented approach. That the application for restoration was made within time is not in dispute. Rule 15(2) of

the Procedure Rules provides for limitation of 30 days in making the application for restoration. In the present case the original application was dismissed in default on 20th July, 2005 and the application for restoration was made on 18th August, 2005. The application having been made within prescribed time and the cause shown for non appearance being sufficient cause, we hardly find any justification in the approach of the Central Administrative Tribunal in rejecting the application on the ground that the application for restoration was not properly made having not been signed by one of the applicants namely Paras Kumar Jain. The exercise to find out as to whether the application was in fact signed and verified by Paras Kumar Jain was unnecessary. We do not intend to deal with this aspect further; suffice, however, to say that litigation before this Court could have been avoided by the Tribunal had the Tribunal considered the restoration application with justice oriented approach.

10. Consequently, we allow this writ petition and set-aside the order dated 23rd July, 2007 passed by the Central Administrative Tribunal. The application for restoration

(misc. application no. 315/2005) stands allowed. Original application no. 162/1997 is restored to the file of the Central Administrative Tribunal, Jaipur Bench, Jaipur. The parties are directed to appear before the Tribunal on 26th November, 2007. No further notice shall be given to the either of the parties by the Tribunal. The Tribunal may hear the original application on that date or on any other date that may be fixed by it. The parties shall bear their expensae litis.

MAHESH CHANDRA SHARMA,J. **R.M.LODHA,J.**